UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,372	02/21/2002	Christian Kraft	004770.00789	5016

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EXAMINER
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2628	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>08 June 2010</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: *1-6,8-13 and 15-26*.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☒ Other: <u>See Continuation Sheet</u>.

/Peter-Anthony Pappas/
Primary Examiner, Art Unit 2628

Continuation of 13. Other:

The information disclosure statement filed on 6/8/10 has been considered by the examiner.

In response to applicant's remarks against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's remarks that the method being referred to is the method of manually defining a Bezier form for each video frame and not of applying changes to other images in the sequence the examiner does not agree. Gonsalves et al. teach a method and apparatus for editing images (col. 1, ll. 5-7) comprising: receiving user (e.g., graphics editor) instructions to change individual pixels of the bit-map pattern, storing the at least one image with the user-instructed changes to the individual pixels of the bit-map pattern; automatically applying changes to other images in the sequence based on changes to the individual pixels of the bit-map pattern ("A graphics editor performs the task of adding special effects to still pictures and to motion video segments using a graphics workstation." – col. 1, ll. 11-14; "To achieve a color change effect, the graphics editor, using a mouse, graphics tablet or similar input device" – col. 1, ll. 24-28; "Color changing is a special effect that involves changing the color of certain pixels within one or more video image frames. One application of color changing involves modifying the color of an object to make it more or less noticeable in the video image frame. Another application of color changing is to repair a damaged portion of the video image frame. A third application of color changing is to add color to a video image frame to generate the appearance of one or more new objects in the video image frame." – col. 1, ll. 15-23; "If the video frame that underwent the color change belongs to a sequence of frames, and the graphics editor wishes to make a similar color change to the other frames in the sequence, the graphics editor may move the alpha matte in the frame sequence using key frames, as illustrated in FIG. 4 … The steps of the method can be repeated automatically using the general purpose computer 20, and the graphics editor need not manually define a Bezier form for each frame." – col. 5, ll. 42-52). Gonsalves et al. further teach "…and the graphics editor need not manually define a Bezier form for each frame." (col. 5, ll. 51-52). Emphasis is given to the term "and" as it denotes an addition to the prior limitation "The steps of the method can be repeated automatically using the general purpose computer 20…" (col. 5, ll. 49-51). Gonsalves et al. fail to teach or suggest that said method being referred to is limited to only defining a Bezier form. The examiner invites the applicant to point out where exactly Gonsalves et al. limits "The steps of the method can be repeated automatically using the general purpose computer 20…" (col. 5, ll. 49-52) to only defining a Bezier form.

In response to applicant's remarks that nowhere does the cited portion of Wells et al. teach or suggest receiving any user instruction to add movement the examiner does not agree. Wells et al. teach receiving a user instruction to add text ("The animation_parameter is a parameter that can, at run-time, be passed to the animation. For example, text characters used in an animation can be passed to the animation in an animation_parameter…" – col. 5, ll. 35-45; col. 8, ll. 23-43) and movement to the at least one image ("…The text is scrolled in a Scroll Direction … which is illustrated as being from right to left … the scroll direction could be from left to right, or from bottom to top or top to bottom ... or simultaneous horizontal and vertical scrolling can be accomplished. The text may also 'ping-pong' from side to side or from top to bottom … The displayed text can be preprogrammed into the mobile station by the manufacturer, service provider, dealer, or can be entered by the user." – col. 8, ll. 23-43). It is noted that prior to specific text characters being passed at run-time to an animation said specific text characters would not be animated (e.g., moving) as said specific text characters would not have been passed for animation processing.

Applicant's remarks have been fully considered but they are not persuasive.